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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,007	09/24/2003	Rie Sato	24263US6RD	1801
22850	7590	09/19/2005		EXAMINER
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			ROSE, KIESHA L	
			ART UNIT	PAPER NUMBER
			2822	

DATE MAILED: 09/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/669,007	SATO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kiesha L. Rose	2822	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 June 2005.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-9 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## DETAILED ACTION

This Office Action is in response to the request for reconsideration filed 23 June 2005.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1,2 and 5-7 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kawato (U.S. Publication 2004/0061978) in view of Kagami et al. (U.S. Publication 2005/0068691).

Kawato discloses a magnetic sensor that contains an emitter (11b), a collector (101) formed adjacent to the emitter, a base (21a) formed between the emitter and the collector and having a magnetization pinned layer of ferromagnetic material (42a), a magnetization free layer of ferromagnetic material (44a) and a nonmagnetic layer (43a) between the magnetization pinned layer of ferromagnetic material and the magnetization free layer of ferromagnetic material, the magnetization pinned layer having a magnetization substantially fixed in an applied magnetic field, the

magnetization free layer having a magnetization substantially free to rotate under the applied magnetic field, and the nonmagnetic layer decoupling exchange coupling between the magnetization free layer of ferromagnetic material and the magnetization pinned layer of ferromagnetic material and a tunnel barrier layer (102) of antiferromagnetic material formed between the magnetization pinned layer of ferromagnetic material and the emitter or between the collector and the magnetization pinned layer of ferromagnetic material and provided with an exchange coupling with the adjoining magnetization pinned layer of ferromagnetic material, the magnetization of the magnetization pinned layer of ferromagnetic material being fixed by the exchange coupling between the magnetization pinned layer of ferromagnetic material and the tunnel barrier of antiferromagnetic material and a magnetic flux guide (65 (Fig. 9)) coupled to the magnetization free layer. Kawato discloses the tunnel barrier comprised of AlO but can be formed of other materials, where Kagami discloses a magnetic head that contains a tunnel barrier that is formed of AlO or NiO or other materials where NiO is an antiferromagnetic material so AlO would be an antiferromagnetic material. (Page 7, Paragraph 74)

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 3 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawato and Kagami in view of Katti et al. (U.S. Patent 6,707,084).

Kawato and Kagami disclose all the limitations except for a nonmagnetic material in contact with the tunnel barrier layer. Whereas Katti discloses a spin valve (Fig. 5) that contains a spin-tunnel transistor and an electric field effect transistor where the spin valve contains a pinned layer of NiFe ferromagnetic layer (404), a Cu nonmagnetic layer (408), a NiFe ferromagnetic layer (412), a nonmagnetic interlayer (502) and a NiO tunnel barrier (504) formed of antiferromagnetic material and is an oxide of the pinned layer. The nonmagnetic layer is in contact with the antiferromagnetic tunnel barrier layer to adjust or select the amount of coupling between the antiferromagnetic layer and the soft layer (ferromagnetic layer (412)) by reducing the coupling strength between the antiferromagnetic layer and the hard layer (ferromagnetic layer (404)) (Column 7, lines 49-53) Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the devices of Kawato and Kagami by incorporating a nonmagnetic layer in contact with the tunnel barrier layer to adjust or select the amount of coupling between the antiferromagnetic layer and the soft layer (ferromagnetic layer) by reducing the coupling strength between the antiferromagnetic layer and the hard layer (ferromagnetic layer) as taught by Katti.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Fujikata et al. (U.S. Publication 2002/0086182) discloses a spin tunnel with an emitter, collector, ferromagnetic material, magnetization free ferromagnetic material and a nonmagnetic material formed therebetween with a tunnel barrier.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kiesha L. Rose whose telephone number is 571-272-1844. The examiner can normally be reached on M-F 8:30-6:00 off 2nd Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amir Zarabian can be reached on 571-272-1852. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*KLR*  
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